UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

ATSCO HOLDINGS CORP, et al.,	)	
	)	
Plaintiffs,	)	Case No. 1:15-CV-1586
	)	
v.	)	Judge: Christopher A. Boyko
	)	
AIR TOOL SERVICE COMPANY, et al.,	)	
	)	
Defendants.	)	
	)	

REMOTE DEPOSITION OF

WILLIAM PATRICK CURRY

WEDNESDAY, NOVEMBER 4, 2020

Reported by: MIRANDA L. PEREZ, CSR No. 14352
Job No.: 186136

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v.) Judge: Christopher A. Boyko
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Defendants.)
)

REMOTE DEPOSITION of WILLIAM PATRICK CURRY, held via Zoom, commencing at 10:05 a.m. and terminating at 1:05 p.m. on Wednesday, November 4, 2020, before Miranda L. Perez, Certified Shorthand Reporter No. 14352, in and for the State of California, pursuant to Notice.

A P P E A R A N C E S

For the Plaintiffs:
BY: BRIAN MUETHING
KEATING MUETHING & KLEKAMP
1 East Fourth Street
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BY: RICHARD GOODMAN
ATTORNEY AT LAW
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For the Defendants:
BY: TIM COLLINS
THRASHER, DINSMORE & DOLAN
1111 Superior Avenue
Cleveland, Ohio 44114

Also Present:
Trisha Von Lanken, Videographer
TSG Reporting, Inc.

- CURRY -

I N D E X

WITNESS

WILLIAM PATRICK CURRY

E X H I B I T S

Information Requested:
(None)
Portions Marked at Request of Counsel:
(None)
Witness Instructed Not to Answer:
(None)

- CURRY -
Wednesday, November 4, 2020
10:05 a.m. - 1:05 p.m.

THE VIDEOGRAPHER: Good morning, Counsel. My name is Trisha Von Lanken. I'm a certified legal videographer in association with TSG Reporting, Incorporated.

Due to the severity of COVID-19 and the following practice of social distancing, I will not be in the same room with the witness. Instead I will take the deposition remotely.

The Court Reporter, Miranda Perez, also will not be in the same room, and will swear in the witness remotely.

Do all parties stipulate to the validity of this video recording and remote swearing? And it will be admissible in a courtroom as if it was taken following Rule 30 of the Federal rules of Civil Procedures, and the State rules where this case is pending.

Do all agree?

MR. MUETHING: Yes.

MR. COLLINS: Yes.

MR. GOODMAN: Yes.

- CURRY -

THE VIDEOGRAPHER: Thank you. This is the start of Media Label No. 1 in the video recorded deposition of William Patrick Curry in the matter of Atsco Holdings Corporate, et al. versus Air Tool Services Company, et al. in the United States District Court Northern District of Ohio, Eastern Division, Case Number 1:15-CV-1586.

This deposition is being held remotely on Wednesday, November 4th, 2020, at approximately 10:06 a.m.

Counsel, please introduce yourselves and the parties you represent.

MR. MUETHING: Good morning, this is Brian Muething, Keating & Klekamp on behalf of the Plaintiffs that you've identified.

MR. COLLINS: Tim Collins, Thrasher Dinsmore, Dolan, Cleveland, Ohio. I represent the Defendants in this case.

THE COURT REPORTER: Mr. Curry, will you please raise your right hand?

///

- CURRY -

WILLIAM PATRICK CURRY,

Called as a witness by and on behalf of the Plaintiffs, and having been first duly sworn by the Court Reporter, was examined and testified as follows:

THE WITNESS: I do.

THE COURT REPORTER: Thank you.

DIRECT EXAMINATION

BY MR. MUETHING:

Q Good morning, Mr. Curry, as you've heard, my name is Brian Muething. Could you state your full name for the record, please?

A William Patrick Curry.

Q I know from having talked to you before that you tend to go by your middle name; is that correct?

A Correct.

Q So if I call you Patrick or Mr. Curry today, will either one of those be okay?

A Absolutely.

Q Patrick, can you tell the Court where it is that you are employed?

A I work for Hy-Tech Machine, Incorporated in Cranberry Township, Pennsylvania.

- CURRY -

Q Thank you. And what does Hy-Tech do as a business?

A Hy-Tech is a manufacturer of air tools and air tool parts.

Q What is an air tool? Can you explain that to the Court?

A An air tool is a device. It can be a wrench, it can be an air motor, it can be a grinder that actually operates off of compressed air.

Q Okay. Can you give us an example of how that works in practice or a specific use for a tool like that?

A Well, a lot of -- probably most common would probably be an impact wrench. And an impact wrench is used to loosen or tighten bolts or nuts in a variety of applications. It could be to take lug nuts off of a car or a truck. It could be to tighten bolts that are used to assemble a bridge for that matter.

So it's a variety of different applications for loosening and tightening bolts, an impact wrench. If it's a grinder, pneumatic grinder, it could be for grinding steel, aluminum, things of that nature.

So we make a variety of different pneumatic air tools.

- CURRY -

Q What is your current position at Hy-Tech?

A My current position is vice president general manager of power transmission group, which is a division of Hy-Tech Machine. Formally, I was the operations manager at Hy-Tech Machine.

Q And approximately when, in terms of years, were you the operations manager?

A I was the operations manager from June of 2012 until approximately December of 2019.

Q Okay. And it's primarily that role and your service in that role that I would like to discuss with you today.

Can you tell us what some of your responsibilities were as the operations manager?

A As the operation manager at Hy-Tech, I was responsible for all the manufacturing responsibilities, day-to-day manufacture of parts that went through the manufacturing plant. I was responsible for quality control. I was responsible for the shipping and receiving for Hy-Tech and also over product development, engineering and product development.

Q You mentioned you were responsible for manufacturing functions. Can you tell us a little bit more about what your day-to-day duties would have been?

A Well, Hy-Tech is a manufacturing plant that made all the parts for the air tools that we manufacture. We had 53 CNC machining centers, and a variety of different types of machine centers from lathes to mills and so forth.

So we actually took raw material, raw bar stock and machine that bar stock into a variety of different parts that went into all the different air tools that we manufacture.

Q Just for someone who is not familiar with that process, I mean, tell me, say, take raw materials and you fashion them in some point.

Can you just explain that at very basic levels?

A Yeah. You can purchase raw material, all different types of materials: Steel, brass, bronze, aluminum-type materials in a raw form, which usually comes in a round bar, 18 to 20 foot long. It can come in a hex form, square, rectangular form.

So we take that raw material that we purchase, we usually saw it to a certain length, and we take that part and put it into a CNC lath or CNC milling machine. And then actually form that part by machining it to a certain specification on a drawing that we had created,

our engineering group had created in order to make that part. And that engineering drawing would have all the tolerant specifications needed to manufacture a machine in that part.

Q Okay. You mentioned something, a term that I'm not familiar with or maybe the -- certainly the Court may not be familiar with, CNC? What were you referring to there?

A CNC stands for computer numerically control machine. So it could be a milling machine or a lathe that actually is operated by a computer, it has a computer inside the machine, so you can actually program the machine to do the machining of the parts.

Q And you're using the term "the machining of the parts." At a very basic level, what does that mean?

A What that means is it's a machine that you can actually put a tool holder in. It has -- actually, the machine has a spindle, whether it's a horizontal or vertical orientated spindle that rotates. And you can either rotate the raw material, or you can rotate the cutter that you put in the machine to cut the material.

So you're either rotating -- if it's lathe, you're actually rotating the raw material. If it's a mill, you're actually rotating the cutter to do the

cutting of the raw material.

So when we refer to "machining," we're really talking about cutting the raw material, whether you're rotating the raw material or you're rotating the cutter to do that.

Q And eventually turning it into a tool that you can then sell in the marketplace?

A Yeah. Turning it into a part that ultimately will go into a tool with the multitude of parts that you can sell the tool in the marketplace, correct.

Q Thank you. That's very helpful.

You mentioned, I believe, that you were responsible for quality control in your role as the operations manager.

Can you tell us what that function entails?

A Well, in the Hy-Tech environment, we do quality control inspection of everything from raw material that comes in in a raw state, and we do quality inspection on the parts as they are being machined.

So there may be six different operations on this particular part. We will do a quality inspection on each individual operation as the parts are being manufactured in the machine.

So we do a first piece inspection. We will

set up on the first operation. Let's say there's six operations in this particular part. We'll set up on the first operation, we'll run one piece, stop and inspect that piece to make sure that it is to the drawing and made correctly to all the tolerance and specifications on the engineering drawing. Then the QC inspector will release that part to be made -- and let's say we're making 50 of these parts. Then the other 49 pieces can be made.

And the operator that is actually operating the milling machine or the lathe would actually do the QC inspection on the rest of the parts.

When that operation is done, it would go to the second operation, and the same thing starts over again. We do a first piece inspection on that part, once the first piece comes off, making sure that it is to the drawing, to the engineering drawing, and then it gets signed off on and goes to the third operation and so forth, all the way through the sixth operation that it takes to make this part.

When it is completed, the QC inspector would actually sign-off on that part saying that it has been made to the engineering drawing in the correct specifications.

- CURRY -

Q And, Patrick, perhaps it goes without saying, but what is the importance of being able to design these parts to the drawings and to the specifications? Why is that important?

A Well, first of all, if you're going to make this -- make a multitude of different parts that go into one tool, let's say we're making an impact wrench. That impact wrench may have 30 to 40 different parts in it.

If you do not make the part to the drawing correctly, when you go to assemble the final product, you're going to have problems with the assembly, you may have problems with the tool performing. And the tool will not function properly.

Q Okay. Thank you.

Do you have any other functions or responsibilities that we haven't discussed in your role -- in your prior role as the operations managers?

A Not anything that I haven't mentioned, no.

Q Okay. Are you the person that is most familiar with, kind of, the operations of the facility at Hy-Tech at this time?

A Yes.

Q Thank you. With respect to the -- strike that.

- CURRY -

Are you familiar with the Air Tools Service Company transaction that occurred in approximately 2014?

A Yes.

Q Just in your own words, not holding you to the legal terms or anything, what is your understanding of what that transaction did?

A Well, just to give you a little bit of background, Atsco was its own company manufacturing similar parts that we manufactured in air tool parts and air tool products. From what I understand, we purchased the Atsco Company and their products into the Hy-Tech operation.

So we moved manufacturing equipment from Atsco to Hy-Tech. We moved inventory to Hy-Tech. And basically got into manufacturing their parts and components and complete tools.

Q Okay. Thank you. And in big picture, can you describe if that integration was run smoothly or if it had challenges?

MR. COLLINS: Can I interject for a second? I meant to object but I was muted. My fault.

A lot of leading questions, Brian. I'm suggesting that you not lead since this is your one opportunity to take this deposition. I object.

- CURRY -

MR. MUETHING: Okay. Thank you. So you're objecting to that question?

Thank you.

BY MR. MUETHING:

Q Mr. Curry, can you describe for the Court, the integration process and -- well, strike that.

Can you describe for the Court the process that you referred to where you integrated assets into the operation at Hy-Tech?

A Integrating and doing an acquisition of a company and integrating it into Hy-Tech was a variety of different things. Everything from moving all other data that was in their computer system into our system, which would include all of their individual part numbers, the material, the costs, things of that nature. All the financials and so forth in their computer systems was moved over.

Then the other aspect would be all the machinery that we moved from Atsco to Hy-Tech, variety of different milling machines and lathes and things of that nature, all things with machines.

And then I think there wasn't really any people that we brought over, personnel that came over. So it was primary that all their inventory got moved

- CURRY -

that they had in stock got moved over.

So it was a whole integration of all those things into the Hy-Tech system and location.

Q Thank you. Did you encounter any challenges through that process?

A Yeah, several challenges. One was there was a machine that, a MacTurn machine that they had that did -- it was a multifunction machine that made several other major components that went into their product. That machine had a lot of problems after we had relocated and tried to get it up and running.

And a lot of their documentation, such as their engineering drawings, were not up to date. So we had a lot of problems with their engineering drawings not matching the parts that were to be made.

Q Thank you. And we'll cover each of those in turn. I appreciate that.

Before we do, I wanted to ask: From an operations manager's standpoint, were you excited about the prospect of adding the assets that would come with this transaction?

A Oh, absolutely. I was excited about the Atsco move from a standpoint of being able to integrate their products into our product portfolio and having the

- CURRY -

additional sales. That was probably the most exciting thing. It's always exciting to make an acquisition and hopefully grow the company.

Q You mentioned the MacTurn. Tell the Court, if you could, what a MacTurn machine is?

A MacTurn is a machine that's actually a manufactured by a company named Okuma, and it is what you refer to as a multifunctional CNC machine. And what I mean by that is that it will do lathe turning, and it will also do milling.

So it's like taking a CNC milling machine and a CNC lathe machine and combining them into one machine. So you can do the same functions of turning and milling in one machine, whereas instead of having to have two separate machines.

So the productivity of the machine should be much better, so you're actually being able to eliminate process steps by being able to do multiple steps in one machine.

Q Okay. How would having that machine have added to the Hy-Tech operations or business?

A Well, I'm not sure if I understand what you mean "added to."

MR. COLLINS: Objection.

- CURRY -

MR. MUETHING: Go ahead, Tim.

MR. COLLINS: I'm done. I just objected, Brian.

MR. MUETHING: Sorry. It was on mute. I knew you were saying something. But I didn't know what.

MR. COLLINS: Struggling with the technology. I'm not in the office, so I'm at a little bit of a disadvantage.

MR. MUETHING: Okay.

BY MR. MUETHING:

Q Mr. Curry, was it your view that the addition of the MacTurn machine would benefit the Hy-Tech business in some respect?

A Yes, it would have. Adding the MacTurn machine to Hy-Tech would allow Hy-Tech to produce the parts for some of the Atsco products more efficiently, allow us to be more productive and save time.

Q Can you give the Court just a general magnitude of either the size and scope or the dollar amount of a MacTurn machine? I just want to give some background as it relates to just what kind of machine this is.

A If you were -- I'm going to base that on if I purchased a new similar machine.

- CURRY -

From my experience, a machine similar to that today, if you purchased it today, it's going to be somewhere approximately $300,000 to $400,000.

Q Before we talked -- well, let's strike that for a second.

Have you had experience incorporating machines that they required elsewhere into Hy-Tech's business other than this particular transaction?

A Absolutely. We'd make several acquisitions at Hy-Tech when I was there. And even before I was at Hy-Tech, I'd make acquisitions with other companies doing the same thing as I mentioned before that, at Atsco, relocating all of their assets, all their inventory, and all of their data into our computer systems. So we have done it many times in the past.

Q And can you give the Court a general description of how it's been successful otherwise?

A Well, we just completed one that -- sorry?

MR. COLLINS: I'm going to object now again.

It's for the record, it's not to stop you from talking. So go right ahead.

THE WITNESS: Oh, okay.

We actually had made several acquisitions. We made an acquisition at Hy-Tech with a company by the

- CURRY -

name of Pneumatics in Dayton, Ohio. We moved those guys. We purchased them and moved all their inventory, all their products, and then got into manufacturing all their parts and products.

This was probably two years ago. When we didn't have any real problems in that acquisition or relocation of any parts.

We just recently, this past October, purchased two companies in Chicago and relocated those companies February of this year in our Punxsutawney location, Punxsutawney, Pennsylvania location.

We moved over 100 machines to that location successfully and didn't really have any major problems with moving the machines, setting them back up, getting them into production, moving the inventory, and so forth.

We're now making those products and those parts in our Punxsutawney, Pennsylvania location pretty successfully.

Q Okay. How would you -- or can you describe the performance of the MacTurn machine post-transaction, post the Atsco transaction?

MR. COLLINS: Objection.

THE WITNESS: Once we had it relocated to the

- CURRY -

Hy-Tech facility, we had a rigger actually move that into the facility, got the machine set up and started operating the machine.

Within a few days to a week, we immediately started having problems with the machine. And those problems continued for several months, and it was a variety of different problems.

It was the controller not working properly on the machine. It was internal components that didn't -- that failed that we had to replace. The main spindle on the machine had to be completely rebuilt. Just a variety of different problems on the machine that we had to fix.

And we actually had our -- we have an outside maintenance group that actually comes in when we do repairs, that actually would come in each time to do the repair on the machine.

Q How --

A So we never really had a consistent production out of that machine over six to eight months.

Q I'm sorry. I was coughing.

Can you tell me -- I didn't hear the last part. Can you say that again?

A You know, from the time we had the machine,

- CURRY -

over the next six to eight months we never really had true production where the machine ran for three or four or five months without any problems.

Every two weeks, you know, a week to two weeks to three weeks, somewhere in there, we'd always have some issue. With the machine going down that we had to do a repair, maintenance, replace parts, a variety of different things.

Q Would these issues that you're describing, would they affect whether the machine could be used to make parts?

A Well, of course, if a machine doesn't run for whatever the maintenance issue may be, the machine is down. It doesn't run, you can't make parts, and so you're losing, you know, productive hours.

Q Okay. I'm going to upload a document and see if this works for everyone. We tried this yesterday. Hold on one second.

MR. MUETHING: Tim and Patrick, do you have access to the document that I've uploaded?

THE WITNESS: Yes, I have.

MR. COLLINS: Well, I see a directory, Brian.

MR. MUETHING: Can we go off record for one moment, please?

- CURRY -

THE VIDEOGRAPHER: Yes, we can.

MR. MUETHING: Thank you.

THE VIDEOGRAPHER: The time is now 10:30 a.m., and we are now off the record.

(Off the record.)

THE VIDEOGRAPHER: The time is now 10:32 a.m., and we are now back on the record.

BY MR. MUETHING:

Q Patrick, I've provided you a document that we've previously marked PX-14.

Do you have that document there?

A Yes.

Q Have you seen that document before? Do you recognize it?

A Yes.

Q What is that document?

A This, the first page here is a listing of all the different vendors that we've used to purchase parts or repairs or rigging, moving of the machine, for the MacTurn.

Q And -- excuse me.

Is this a document that, to your knowledge, is kept in the ordinary course of business at Hy-Tech?

A Yes, it is.

- CURRY -

Q Okay.

MR. MUETHING: We move to admit Plaintiff's Exhibit 14.

(Plaintiff's Exhibit 14 admitted into evidence.)

MR. COLLINS: I'll reserve my objections for later.

MR. MUETHING: Thank you, Mr. Collins.

BY MR. MUETHING:

Q Mr. Curry, you began to describe what is here in this document. Can you describe in more detail what we're looking at here?

A Yeah. What you're looking at is -- just to get a little more specific here. Under the column "Vendor," you see Ramsey Machine and rigging. Ramsey Machine and rigging was the rigging company we used to move the machine, the MacTurn machine.

Morris Great Lakes, a vendor that actually sells those types of machines, and they sell replacement parts. So we had purchased the replacement parts from Morris Great Lakes.

I won't go through all of them here, but you'll see an L&L Machine. They are the maintenance group, the outside third-party maintenance group that we

use to work on machines.

So this whole list is just showing where we had purchased parts or maintenance from an outside third party or rigging to work to move machine in or around the building.

Q And why did you purchase these parts?

A These parts were all purchased based on the problems that we had with the MacTurn machine. The multitude of different problems that happened with the machine, that the machine kept going down, not being able to run, this is where we purchased the parts.

We would actually purchase the parts, and then we would actually hire an L&L Machine Company to actually do the maintenance or the service to the machine to get it back up and running.

Q Earlier this morning, Mr. Curry, you talked about a spindle that was defective, or you said was defective on the MacTurn machine?

A Yeah.

Q What else do you recall about that spindle?

A The spindle is one of the main parts of any CNC machine, whether it's a vertical or horizontal machine.

In this case, this spindle is a horizontal

spindle that actually rotates in the machine, and you actually feed the raw bar stock material through that spindle. And then the machine actually clamps to the raw material so that you can start to do the cutting of the material, the machining of the material.

And if that spindle is not running true, if it's not operating properly, then you're not going to get accurate machine parts, you cannot hold a tolerance to those parts.

So it was found to be on this machine that that spindle was not running true and to be completely replaced on the machine. So one of the items that you see on this list was a spindle cartridge, and that was one of the items that we had to replace on the machine that was expensive.

Q And which, specifically which item for the benefit of --

A If you come down to I think what's No. 11. It's the first No. 11. There's two on there. It's the first No. 11.

Q And what are the --

A And it -- go ahead. Sorry.

Q No, keep going. Keep going.

A I was going to say it references invoice

No. 44039860.

Q And to your knowledge, are those -- the spindle, the invoice there and supporting documents, are they contained here in this exhibit?

A Yes. There should be an invoice for that later on down into this -- hang on one second here. I'd have to find it here.

And actually, it's an invoice for that spindle that is -- I'm having problems with the document. Hang on one second. Bring it back up here.

If you -- where is it at here? If you look in the second page of this document, and if you go down to what is listed as No. 11 on this document dated August 31st, 2015, you'll see 143 MacTurn 2CIP --

Q Can you slow down for a second?

A Okay.

Q Do you see, you know, the numbers on the actual PDF or the numbers on the bottom right corner that start with "HY"? Can you look at that?

A Oh, okay, yeah.

Q For the record and for everyone, tell us what page you're on?

A I'm on HY0002.

Q Okay.

A Okay. Let me see. There's yeah.

If you look at what is handwritten to the left-hand side that's about two-thirds of the way down, it has No. 11.

Q Yeah.

A And you will see there that that is the spindle cartridge that we're talking about there.

Q Okay. And are the invoices themselves for this spindle? Are they reflected anywhere in this document?

A Yeah, I'm sure they are. Let me see here. And if you go down to -- it's actually a check that we, Hy-Tech, paid to -- it's HY0039 -- to Morris Great Lakes. You can see the check that it was written for for that amount.

Q Are there other documents that relate to this spindle?

A Yeah. If you go to the next page, which is HY0040, there is the spindle cartridge there, the invoice for that. And this is for Morris Great Lakes.

Q Are there any others?

A Back to the second page, you mean?

This second page here, you know, lists almost all of the major things that we purchased for the

machine. And if you scroll through the next pages, you will mostly see invoices and copies of checks that we had written to pay for most of this.

Q You say scroll through the next pages, what do you mean by that?

A Well, what I'm saying is if you go to Page HY002, that is a listing of parts. It's the dollar amount we spent for rigging or replacement parts for L&L Machine to do the maintenance.

So that gives you kind of a general synopsis of what we spent for this machine. If you go past Page HY002, you will see invoices and check stubs for most all those items that you see there, where we actually paid for each one of those items.

Q When you testified a moment ago, you referred to HY0039. Okay? Can you go back to that for a second, please, Mr. Curry?

A Yeah.

Q There's a No. 11 on there in the middle. Do you see that?

A Hang on there one second. Yeah, HY0039.

Q Yes, sir.

A Yeah.

Q There's a No. 11 written in the middle of that

document. Do you see that?

A Correct. Yeah.

Q What does that refer to?

A That No. 11 refers back to the Page HY0002 showing the item that was purchased, that the -- HY0002 is a list of all the items and parts or services that we purchased. Page HY0039 actually shows you the check that was written to the supplier for that amount.

Q So can you go back to HY001 for me, please?

A Okay.

Q And where does the -- where on that document am I pointed to, for example, No. 11 that we just looked at?

A If you come down to look at the sequence number, the first No. 11. That's Morris Great Lakes there. It should be that particular transaction there for that spindle.

Q Okay. So without going through every document and deficiency on this list, can you describe generally how this compilation of records is -- how it, you know, what it shows?

A It just shows a history of all of the parts, repairs, and rigging that we actually spent on this MacTurn machine once we received it and set it back up

in the Hy-Tech facility.

It's all the things we had to spend, all the money and parts and repair service we had to do on this machine to try to keep it up and running.

Q Mr. Curry, at some point, were these repairs sufficient to bring the MacTurn up to a place where it was performing to the way that it was expected to by you?

MR. COLLINS: Objection.

MR. MUETHING: Let me withdraw.

Patrick, Mr. Collins was right. That was a poorly asked question.

BY MR. MUETHING:

Q Were the repairs that you needed, were they sufficient to replace the MacTurn where it was performing to specifications?

MR. COLLINS: Objection.

THE WITNESS: The issue we had with the machine was that it was constantly breaking down. All the repairs, all the parts, everything you see on this Page 1, this HY001, after those parts were installed or our maintenance, our maintenance third-party came in and did the repair, the machine would come back up to operation, but then fail again, whether it was within a

day were or week, or three weeks.

So it was constant. Even though we repaired it, got it to what we thought would work, it was constantly failing time, and time, and time again to the point where we finally just gave in and said, you know what, we've spent too much money trying to keep the thing running. We're better off to just stop using it. And that's what we did.

BY MR. MUETHING:

Q In your experience as operations manager, is it typical to have a machine that's coming offline to this degree?

A Not normally. As I said before at Hy-Tech, we have 53 CNC machining centers in some form or fashion, and we have to do regular maintenance on those machines. And from time to time we have machines that do go down, and we repair them.

But I've never seen a machine in my 20-year career in this field that has had this many problems constantly. So you know, it's just not something that I've seen in my past with this, you know, for a machine to this, you know, a machine that has this many problems consistently.

Q You, in connection with this transaction

- CURRY -

Hy-Tech purchased, one, how many -- strike that.

How many Hy-Tech machines did Hy-Tech purchase in connection with the Atsco transaction?

A You know, I'm not familiar with any machine except for this one. There could have been others, but my involvement was only with this machine.

Q You mentioned at one point, you stopped then using the machine.

What happened next at Hy-Tech? What decisions were made?

A Well, this machine was a critical part of what we would hope to use to make parts for the Atsco product line.

So we decided, as a company, to purchase a similar machine but a brand new machine, so that we could meet our production goals and requirements.

Q Why was that necessary to do?

A The nature of the parts that we were making for Atsco and several other products were very -- the difficult parts to make, they were parts that required a very high tolerance when machining them. And we didn't have a machine at Hy-Tech that really could do the job needed to hold the tolerance. And also do it in a productive manner.

- CURRY -

There was a possibility that we could run these parts in other parts of the business, but it was going to take a lot more time to run them, and it wouldn't be as near as productive as running on a multifaceted machine like a MacTurn-type machine.

Q Okay. So I want to pick up on that last point.

There were jobs -- were there jobs that you then had to transfer to other parts of the business?

A Yes. We did move parts off of the MacTurn machine to other machines that we already had at Hy-Tech so that we could try to produce them to make the product for Atsco. It did take longer. It was not as productive, but we did it to be able to make the product.

Q You said it would be longer. What do you mean by that?

A Well, with your MacTurn being a multifaceted machine --

MR. COLLINS: Can you let the dog out. Can you let the dog out?

MR. MUETHING: Tim, you're on.

MR. COLLINS: Yeah. I'm aware. I'm about to have a bigger problem than that.

- CURRY -

Go ahead.

THE WITNESS: Yeah.

MR. MUETHING: Want to go off the record then? Actually, let's go off the record. I would like to use the restroom. I'm sorry.

MR. COLLINS: Okay. Great. Thank you.

MR. MUETHING: It looks like I'm not the only one. So let's go off the record.

THE VIDEOGRAPHER: Okay.

MR. MUETHING: Thank you.

THE VIDEOGRAPHER: We're now off the record. The time is now 10:52 a.m.

(Off the record.)

THE VIDEOGRAPHER: The time is now 10:59 a.m., and we are now back on the record.

BY MR. MUETHING:

Q Mr. Curry, before we broke, you were talking about doing projects elsewhere that maybe you would have otherwise done on the MacTurn.

Do you recall that testimony?

A Yes.

Q And I believe you stated that doing it elsewhere may be a longer process. Did I hear that right?

- CURRY -

A Correct.

Q Okay. Just so that gets us back to where we were.

Can you describe why it would take longer?

A Well, first of all when you're machining parts and manufacturing on a machine like this, all your costs is associated with the time it takes to make the parts.

So this MacTurn-type machine being multifunctional can produce the parts or machine the parts quicker, because you can do multiple operations in one process.

Once you move that off of that type of machine over to a CNC milling machine or a CNC lathe machine, you cannot do a multiple-type process. You have to do a milling operation or a turning operation, whereas the MacTurn, you can do potentially both operations at one time.

So because of that, when you move it over to another machine, it's going to take a longer time to machine that part than it would if you were running on the MacTurn machine.

Q Okay. Thank you.

Would those machines have been sitting idle, or would they have been doing something else?

A No. They were typically doing other parts for the Hy-Tech business.

Q And you mentioned, I believe, doing this work elsewhere would not be as productive.

Can you describe what you meant by that?

A Well, what I meant by productive is, again, it's going to take longer. When you use a multifunction machine like the MacTurn machine, you can program that machine to do -- while the machine is set up, you can do two or three different operations in one program on that same machine.

So that when that part is done, you've done two, three, maybe even four operations on that machine, whereas if I move that part over to just a CNC lathe, I could only do CNC turning on that.

If I have a milling operation, I have to take it over to another machine and set up, which would take longer to set up and run to make that part, because it's a separate machine that only does milling. I've got a machine here that only does turning.

So you have a turning and the milling machine, whereas on the multifaceted machine, as the MacTurn, I've got one set up to do that part.

So that's why it's more productive to do it on

a multifaceted MacTurn-type machine than it is to do on two separate machines.

Q Okay. Thank you.

You mentioned eventually there was a decision to purchase another MacTurn. I'm going to talk about that for a second.

I've uploaded another PX15. Can you and Mr. Collins see if you can access that, please?

A Okay. Okay, I have it.

Q Have you seen document PX -- a document that's previously been identified as PX15.

Have you seen that document before?

A Yes.

Q Can you identify it for the record, please?

A Yeah. This is a -- do you want me to explain what the document entails? Is that what you're asking?

Q Sure. Well, let me back up for a second.

Just in an introductory manner, Patrick, have you seen this document before?

A Yes.

Q And can you give us not, page by page, but asa summary, just describe for a second what this document is?

A What this shows is the new multifunction

similar to a MacTurn machine that we purchased to replace the MacTurn machine. It shows the process of the machine and accessories that we purchased to go with that machine such as the bar feeder, tool holders and tooling, and all the costs associated with buying this new machine.

Q Thank you. Are these records that are or were kept in the ordinary course of the business of Hy-Tech?

A Yes.

MR. MUETHING: We seek to move to admit the document that was previously identified as PX15.

(Plaintiff's Exhibit PX15 admitted into evidence.)

MR. COLLINS: I'll reserve my objections.

MR. MUETHING: Thank you.

BY MR. MUETHING:

Q And now, Patrick, I want to now pick up where you started to go and discuss where each of these pages kind of generally are.

Can you first turn to page -- it's marked on the bottom corner HY117?

A Okay.

Q Do you know what that document is?

A Yeah. This is a quote from Morris Great

Lakes, our supplier, that we actually -- the distributor that we actually purchased the new machine from.

And this is a quote showing the cost of the machine and all the accessories and so forth you get with the machine when you purchase it.

Q Is this the machine that you ended up purchasing at Hy-Tech?

A Yes.

Q And going back to Page Hy-Tech -- or excuse me -- HY116, the page before. What is that document?

A HY116 is the invoice from Morris Great Lakes, invoicing us for the purchase of the machine.

Q And then going back a page earlier to HY11- -- I think this was a page earlier, HY115.

Do you see that there?

A Yes.

Q Do you know what that is?

A That is a check for the machine, it looks to be. I'm not sure why the $45,000 was deducted.

Normally what we do is we pay them a percentage to purchase the machine. When the machine is delivered, set up, and operating, we pay the balance.

So not one hundred percent sure, but more than likely that's where we paid some of the cost of the

machine, so that would order it and actually get it delivered.

Q Okay. That's helpful. Excuse me.

Going back to HY114.

A Okay.

Q There is an entry for a machine, but there's other entries there as well.

Can you describe for us and for the Court what those other entries are?

A Yeah. The first one is the machine itself. The second one is what is called a bar feeder. A bar feeder is a device that is attached to the end of the main CNC machining center to feed the raw material into the machine. You have to have that to be able to operate this machine.

There's two listed, two holders. Those are just as what it says; it's a device that you actually put in the machine to hold the cutting tools that you're going to use.

There's a freight expense there for shipping the machine to Hy-Tech. There's a rigger expense for the rigger that actually moves the machine into the building and sets it down.

There's several tooling expenses. And these

would be things like drills, end mills, inserts that are the cutters that we're going to use to cut the raw material or parts. There's another tool holder there that's required for one of those.

So that's pretty much the list there. It's all things necessary that you need to go with the new machine to be able to manufacture and machine a part.

Q And are the invoices for the additional needed components reflected on PX15?

A You know, if you look at Page HY0119, that is the bar feeder that we purchased and the installation for it.

So the original page, the original page number HY0114, was an estimate that we put together, originally as what we thought it was going to cost based on verbal discussions with the supplier or the distributor.

But then when we actually came down to purchasing the machine, the price changed slightly, we negotiated the price slightly.

So when you go down and look at all these invoices, if you don't see a price that matches exactly, it's because we negotiated, you know, the price down slightly.

But yes, HY0119 would be the invoice for the

bar feeder with installation. If you scroll down to HY0121, that is a Sandvik supplier, which supplies tool holders. They supply cutting tools and so forth.

And that's an invoice for some of those items.

Q Well, let's stop there for a second.

A Okay.

Q You mention a Sandvik invoice, excuse me.

That's Invoice 699237 that you referred to on HY121.

A Okay.

Q Do you see that?

A Yes.

Q Is that the document that you're referring to?

A Yes.

Q And then if you go back to HY114, do you see that invoice reflected on this summary document?

A I'm going to have to add these up here, but there's a --

Q I'm sorry, Patrick, hold on for one second. Just listen to the question that I may have said unartfully.

A Okay.

Q On HY121, it's Invoice 699237. Do you see that on HY121?

A Yes, yes.

Q Is that invoice shown here on the summary on page -- on the front page, HY114?

A Yes.

Q Okay. Where, for the Court and for the record?

A It is one, two, three, four items down from the top of the list of parts, list of items.

Q And now, you may have said this, but I may have interrupted you.

What was the purpose of the purchase of HY121 and forward?

A When you purchase a new machine center, regardless what type, typically the manufacture of that machine center, it has certain tool holders or tools that will work on that machine or will not work on that machine.

So when you purchase a new machine, you typically have to purchase new tool holders and tools that will work for that machine. And that's what this purchase is here and what these invoices are for.

Q Okay. And then on Page HY126, there's an invoice from Morris Great Lakes for about fifteen -- $1,390.

- CURRY -

Do you see that there?

A Yes.

Q Is that invoice reflected on the summary on Page HY114?

A Yes. That is a freight charge. It's the item under Description that says "Freight."

Q Okay. Thank you.

And then the documents that follow at HY137 and on forward, are those the tools that are reflected also on the summary sheet, the other line items there on HY114?

A Are you talking about on Page HY0136?

Q What I really meant was -- okay. Let's talk about HY136. That's helpful.

This is an invoice from what company? Are you aware?

A No. I don't see that on there, what company it's from. No.

Yeah, I'm not sure who that's from.

Q What's the product there?

A It's a coolant tube set. So it's the hoses that are required to go from a coolant tank to the main CNC machine. That's what it's for.

Q What's the total cost in this one --

- CURRY -

A The total cost is $955.20.

Q And this is for the new machine that you brought?

A Correct.

Q And let's go back up to Page HY114. Is that also reflected on this $955 on the summary sheet?

A Yeah. Yes, it is. It's under -- it's the second from the last item there. It looks like we must have purchased those through Sandvik. It's the same supplier, but it doesn't say their name, otherwise.

Q Okay. Excuse me. Leaving that document aside for a second, Mr. Curry.

What was the effect on Hy-Tech's business from the purchase of this new machine?

MR. COLLINS: Objection.

THE WITNESS: What was the effect of the business by purchasing this new machine?

BY MR. MUETHING:

Q Yeah, the affect of the business.

A Well, the main affect was once the machine was installed and up and running, we were able to produce the Atsco parts efficiently and cost effectively and in a timely manner and not have the constant breakdown that we did with the MacTurn machine.

- CURRY -

Q I want to talk about -- shift gears here for a second and talk about plans and drawings.

Was it your understanding that there were plans and drawing that were purchased in connection with the Atsco transaction?

A Yes.

Q What's your -- how do plans and drawings --

MR. COLLINS: Hey, Brian, you abandoned that claim in your discovery. I don't know why you're going to spend time on it. Objected.

I mean, you answered in the interrogatory the claim was abandoned. So, you know, it's your record, you're going to pay the professionals that are taking this all down, but it's not an issue in the case anymore. We had that conversation with the Court.

MR. MUETHING: I mean, Tim, I think that that's a different issue. But why don't we just -- I don't think it's going to take very long. We'll make the record, and then we can talk, if you like.

MR. COLLINS: Yep. Very good.

BY MR. MUETHING:

Q The -- sorry, lost my train of thought for a second.

How do plans and drawings factor into the

- CURRY -

business that goes on at Hy-Tech and that was acquired from Atsco?

A Well, any part or product that we make, we manufacture and sell to a customer. We have to create engineering drawings for each individual part. And those drawings are done by an engineer usually on a CAD system.

And each drawing has all the dimensions and tolerancing (sic) required in order to make the part, the type of material, if you need heat treat specifications, plating or painting, anything like that. All the requirements needed to manufacture that part.

So when we made the Atsco acquisition, we had looked, you know, to make sure they did have engineering drawings on all of their parts, and they did.

But what we did not know was once we received the drawings when we made the acquisition, almost all of the drawings that we had, quite a few of them were not up to date, which means the parts that they were manufacturing at the CNC machining centers, once you produced that part, it did not match the drawings that were provided to us.

There were dimensions that were incorrect on the drawing based on the parts that you were making.

- CURRY -

The tolerances were not updated.

And typically in the engineering and manufacturing environment, when you make engineering drawings, you have to -- over time, there's going to be changes to those drawings. You're going to update the drawings. You're going to change tolerances or materials or whatever it may be that you're going to change on the part.

And there is a pretty normal process. We call it our DCO process, which stands for "drawing change order." That's what it stood for. Other companies call it an "engineering change notice."

But basically what that process is is that when you need to make a change to the drawing, you go through a formal process that an engineer will review the drawing, make the changes, usually fill out a form to show what changes were made and why, and that also is noted on the drawing.

And typically, in a title block on a drawing. You will have a revision number. It could be a number or a letter. It depends on the company's process.

So you can see a history of all of the changes that may have been made over the years for that part. What we found with Atsco is that they did not keep up

- CURRY -

with that process. They had a process, but they did not keep up with that process.

So almost all their drawings had not been updated to the parts that they were currently making.

Q What happens if the drawing is not updated for the part that they're making?

A Well, first of all, you're not one hundred percent sure if the part that you're producing at the machine is correct. So that is -- that's a big problem.

The second problem is when your quality control group or inspector could be checking the parts that are coming off the machine to an inaccurate drawing, so he may think the parts are wrong. It could be the parts are wrong, could be the drawing's wrong, we're not sure.

Also, if you go ahead and produce that part and the part's wrong to the drawing, when you go to use that part to produce a complete product -- it may be a impact wrench or a grinder, whatever it may be -- you may have a problem in the assembly of that or the performance of that product.

Q Okay. You mentioned this earlier, but to establish this for the record, what steps did you take to address the deficiencies that you just spoke to?

- CURRY -

A So once we started producing a few parts, we realized that there was a lot of drawings that were not updated correctly. So we implemented a process where we would take the CNC program, this is the program that had been put into the CNC, the machine center, and we would produce one part. We would take that part second to the drawing.

If we found any inconsistencies between the drawing and the part, then we would have to go back, engineering would have to go back to figure out what is the problem? Is it the parts that's wrong that we just produced? Or is it the drawing that's wrong?

And maybe even go back further to a complete tool and find an existing tool that we may have in stock, or maybe parts that we had inherited from Atsco, check those to drawing and the part we just made in order to find out and figure out what is right or what's wrong.

A lot of cases, the drawings were the problems. The parts that were being produced at a CNC machine, in most cases, in a lot of case, were correct. But the drawings were not updated.

That's mainly what we found. We kept a record of all of those changes that we had to make. We

- CURRY -

actually just implemented it into our normal drawing change note, drawing change order process at Hy-Tech.

Q Okay. You say you kept a record. Can you open up the documents that I uploaded to the system at PX26? It's a spreadsheet.

A Okay.

MR. MUETHING: Do you have it available, Tim?

THE WITNESS: I have it in front of me, yes.

MR. MUETHING: Tim?

MR. COLLINS: Got it.

MR. MUETHING: Okay.

BY MR. MUETHING:

Q Mr. Curry, have you seen this document before?

A Yes.

Q Could you tell the Court what that document is?

A This document is our file that we kept to record all the changes that we made to the Atsco drawings as we found a problem.

So the first column is your --

Q Let me stop you there for a second. I'm sorry, not to cut you off. I just have to do some housekeeping on our end here for the record. Excuse me.

Is this a document that was kept in the

ordinary course of business at Hy-Tech?

A Yes.

MR. MUETHING: Plaintiff seek to admit documents that has been previously identified as PX26.

(Plaintiff's Exhibit PX26 admitted into evidence.)

MR. COLLINS: You already have my objection, but I'll reserve other objections as to this document.

MR. MUETHING: Okay.

BY MR. MUETHING:

Q Mr. Curry, you began to describe what is reflected on this document. Can you do -- sorry to have cut you off. Go ahead.

A No problem.

This is a list of all the parts and drawings that we inherited from Atsco that we were manufacturing at Hy-Tech. And these were a listing of all the parts that we had to make changes to.

So when you look at this document, the first column says, "part drawing." That's the part number. Part number and drawing number are the same number. And then a part name or description, the date in which we made this change, description of the change that we made, number of changes since the September 1, '14, we

had actually made four different changes to this drawing.

And the reason for the four different changes is that as we go through to make this part, there's multiple processes on this part. There could be six to eight machining processes. And as we go through every process, we may find on the first process, when we complete that process on the part of machining it, it doesn't match the drawing.

We go to the next process, produce that process on that part, it may not match the drawing. So we changed it, in this particular case, four times.

We put a drawing change order number. This is how we designate the revision level of this drawing.

So the part number is 1-RP3KD3. We put a "-H" beside it because we're going by the alphabet, A, B, C, D, E, F, G, which A would have been the very first revision or change to this part. We're now at revision H.

Now, when I say that, revision A could have been done at Atsco years prior. We were at revision -- we picked up where they left off, and the latest revision was H. There's a status column of where the changes is at. How many hours did it take to make this

change on the drawing and so forth. We have an engineering rate on here, total cost.

And then shop order is the document that actually goes through the shop for that part to be manufactured, and it shows all the manufacturing steps the part has to go through in order to get it completed.

So this whole document is just a listing of all the changes that we made to Atsco drawings from the time we inherited it until we basically got through making all the parts.

Q And were the changes necessary for the business?

A Absolutely. We had to make sure that the drawings matched the parts that we were making.

Q Mr. Curry, you mention the engineer hourly rate that's shown there is $200?

A Uh-huh.

Q Can you -- was that a -- did you have occasion to charge engineer rates in the marketplace, for example, September of 2015 or at other points?

MR. COLLINS: Objection.

THE WITNESS: Yes.

From time to time, depending on what projects we may be doing for our customers. If we had to do, you

know, some engineering time developing a new product or a new part for a customer that was to their specification, then we would normally charge them an engineering fee to do that, and that was the hourly rate in which we would charge them.

BY MR. MUETHING:

Q It was $200 you're saying?

A Yes, yes.

MR. MUETHING: Let's go off the record for a little bit. We may be winding down with Mr. Curry on direct. And then let me check my notes, and we can then move forward.

So let's go off the record.

THE VIDEOGRAPHER: The time is now 11:29 a.m., and we're now off the record.

(Off the record.)

THE VIDEOGRAPHER: The time is 12:05 p.m. And we are now back on the record.

MR. COLLINS: Thank you.

CROSS-EXAMINATION

BY MR. COLLINS:

Q Mr. Curry, Tim Collins is my name. Thanks for

- CURRY -

your patience here this morning, and thanks for your willingness to answer the questions that were put into you.

A No problem.

Q Great. So let me ask you a couple questions about the background of the transaction between Air Tool, which is my client and Hy-Tech, which is your employer.

Is that fair?

A Yes.

Q All right. So did you know that the document between the parties that governed the transaction is called an asset purchase agreement?

A Not necessarily.

Q Okay. Did you see the document, the asset purchase agreement?

A No.

Q Have you read any of the attachments that were included in the asset purchase agreement?

A No, not that I can remember. No.

Q Okay. Did anybody ask you to evaluate any of the terms that are included in the asset purchase agreement?

A No.

- CURRY -

Q Did you know that there was a list of assets being purchased attached to the asset purchase agreement?

A I don't know of a list of assets. I probably -- I may have seen a list of assets, you know, years ago, but it wasn't anything formal from what I can remember.

Q Did you know that your employer did what we call due diligence before this contract was signed?

A I'm aware of them talking about doing due diligence, but I was not involved in it.

Q Okay. Do you know if there were any documents that were created in the course of the due diligence that --

A No, no.

Q Okay. So you don't know if there was one, for instance, or two Okuma MacTurns that were being talked about before this asset purchase agreement was signed, do you?

A No. I'm not aware of it, no.

Q And let me ask you: Did you ever make a trip to Air Tool in Mentor, Ohio before this transaction?

A Yes.

Q Before the transaction?

- CURRY -

A Oh, not before the transaction. No.

It was after the transaction, yes.

Q Do you know when the transaction occurred?

A No. I don't know the official date, no.

Q Okay. Well, I'm looking at a signed copy of the asset purchase agreement, and on the first line it says August 13, 2014.

Does that date mean anything to you?

A Not necessarily, no.

Q Okay. Do you know anything about Air Tool conducting its business prior to the closing of this transaction?

MR. MUETHING: Objection. Vague.

BY MR. COLLINS:

Q You can answer.

A No.

Q Did you talk to anybody prior to the closing of the transaction from Air Tool?

MR. MUETHING: Objection. Vague.

THE WITNESS: Did I talk to any -- repeat the question again.

BY MR. COLLINS:

Q Yeah. Sure.

It's a very simple question: Did you talk

- CURRY -

with anyone from Air Tool prior to August 13, 2014?

A Not that I remember.

Q And then did you attempt to understand how Air Tool did business after the transaction closed?

A Can you be more specific when you say how did they do business? I wasn't involved in any of their business as far as their customers or who they sold to, anything like that. Not aware of that.

Q Did you gather any information from anyone from Air Tool as to how they manufacture parts?

A After the transaction, yes.

Q From who and when?

A Nick Russel. I don't remember the exact date. It would have been after it was over. I don't remember the date.

Q All right. I think you said that no one from Air Tool became an employee at Hy-Tech. So was Nick an employee?

A Nick was a -- I don't know if he was a real employee, but he did actually help us out. I'm not sure if he was part-time or what, but he did help us out after the transaction.

Q Okay. Was there anyone else from Air Tool that you interacted with as to how Air Tool manufactured

its parts?

A Not directly, no.

Q Okay. Would you agree with me that Air Tool was in a better position than Hy-Tech to know if the Okuma was maintained consistent with standards generally following the industry before the transaction took place?

MR. MUETHING: Hey, Tim, I'm sorry, but you broke up a few times for me during that question, and maybe for the witness too, so he can't answer.

MR. COLLINS: Yeah. Sure. I'll ask it again.

BY MR. COLLINS:

Q Would you agree that Air Tool was in a better position than Hy-Tech to know if the Okuma MacTurn was maintained with standards generally followed in the industry before the sale to Hy-Tech?

A No, I wouldn't agree with you on that.

Q You think somebody else was in a better position before the sale to Hy-Tech to know whether that Okuma was being maintained consistent with industry standards?

A I don't know if it was -- I don't know if it was being maintained, that's why I can't say I can't agree with you. I don't know if it was being maintained

or not. I have no idea.

Q Well, who would be in a better position before this transaction? The folks at Air Tool, or the folks at Hy-Tech if you had to pick, prior to the transaction?

A Yeah. You know, I'm not going to pick, because I don't know the people that were at Air Tool that would have evaluated or known.

So I don't know if they had anyone there that knew enough about the machine to evaluate. So I don't know.

Q Okay. So you don't know, and you can't pick, and you would not be in a position to favor Hy-Tech in that conversation; is that right?

A I wouldn't favor anyone because at the time before the transaction, we weren't involved with the machine.

Q Right. So you don't have any information to offer on that question is what you're telling me?

MR. MUETHING: Objection. Vague.

THE WITNESS: I don't have any information to offer what the status of the machine was before Hy-Tech made the purchase and before we received the machine.

BY MR. COLLINS:

Q Okay. All right. And similarly, you don't

have any information to offer with regard to the nature, quality, or upkeep of inventory that Air Tool had prior to the transaction, do you?

A Not prior to the transaction, no.

Q Now, you've mentioned a company called L&L, which is apparently the service provider that Hy-Tech uses for the Okuma-type machines; is that right?

A That's correct. They deal with all the third-party maintenance companies.

Q So in other words, there's no one at Hy-Tech who repairs Okuma MacTurn pieces of equipment; is that right?

A That is correct.

Q Is it fair to say that an Okuma MacTurn, it's a multifunctional piece of equipment; correct?

A It does multi-type of machining, yes.

Q And it's run by some kind of computer program; correct?

A It is run by -- I mean, to make a particular part, you have to create a CNC program and put it in the machine for it to operate properly.

Q So you've got both a software and then a significantly sized piece of hardware that have to interact together to create the end result; correct?

A Correct. Yes.

Q And so that interface of software and hardware is a complicated relationship; is that correct?

A I don't know what you mean, specific to say "it's complicated." You have to have experienced people to operate the machine. And if you've got experienced people, it's not that complicated.

Q And so there's operating, but then there's also if there's a problem with a piece of equipment, somebody has to diagnose that problem; correct?

A Yes.

Q And you have L&L that you utilize to diagnose problems with pieces of equipment like an Okuma MacTurn; correct?

A Yes.

Q You don't try to diagnose it internally, you notice it's not working, and then you bring in L&L; isn't that correct?

A Correct. Yes.

Q Is there another company by the name of Gossinger, G-O-S-S-I-N-G-E-R, that you work with?

A I vaguely remember that name. Not one hundred percent sure who they are, but it sounds familiar.

- CURRY -

Q Okay. If I told you that they do the same kind of work on Okuma MacTurns as L&L, would that refresh your recollection?

A Not one hundred percent. I've got a faint memory of that name in the past of maybe -- I just don't remember what they do.

Q Okay. So in addition to diagnosing the problem with an Okuma MacTurn, you also -- you let L&L do the repairs themselves to those pieces of equipment; correct?

A To get specific, they actually would come in, diagnose the problem, let us know, Hy-Tech know what the problem is, what they found to be the problem, and what needed to be done to fix it and --

Q So you have nobody in-house that you could sub in to do the work that L&L was doing; is that correct?

A That is correct.

Q So I think you told us that you had 53 CNC machines? That doesn't mean you have 53 Okuma MacTurns; is that right?

A No, no. 53 different types of CNC machine centers.

Q And how many Okuma MacTurns does Hy-Tech have -- or did it have prior to the Atsco transaction?

- CURRY -

A Up to that point, we did not have that type of machine, a MacTurn-type machine.

Q Okay. Did you have other Okuma machines?

A Yes. We had a wide variety of different Okuma branded CNC machines.

Q Your direct supervisor during the time of the acquisition of Atsco, was that Mr. Ober?

A Yes.

Q Was there anybody else that was your supervisor?

A No.

Q What was his job at Hy-Tech?

A He was the president of Hy-Tech.

Q And what did he do as the president of Hy-Tech?

A He'd run the day-to-day business. He was involved in a multitude of different things from, you know -- he was involved in manufacturing to some degree with me. He was involved with sales to some degree.

I mean, just being of normal duties of a president of a company.

Q So as the planning was taking place for this acquisition, I think you described it as something that was exciting to you.

- CURRY -

Do you recall that testimony?

A Yes.

Q Okay. Were you informed by Mr. Ober or any other persons at the company that all of the manufacturing at the Atsco plant in Mentor, Ohio was going to be transferred to -- I think you said Cranberry, but the Pittsburgh area in no more than six to nine months after the transaction?

Were you informed of that?

A I don't remember the exact number of months, but I was informed it would be moved to a Hy-Tech location.

Q And I think the Okuma MacTurn piece of equipment, when we were looking at Exhibit 14 earlier, you showed us an invoice dated September 24, 2014.

That was when the Okuma was moved; correct?

A I don't remember the exact day it was moved.

Q Well, if I told you that on Exhibit 14, the referenced date of the service was September 24,2014 you're not going to disagree with me on that date, are you?

A No, no. Not if it's on that invoice, no.

Q And if this transaction closed on August the 14th, 2014, we're talking about 40 days from closing

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the transaction to picking up the Okuma and relocating it to the Cranberry office of Hy-Tech.

Does that seem correct to you?

A It seems correct. But -- well, go ahead.

Q When a computer-controlled piece of equipment.

Actually, let me get you to describe it for the Judge. How big is this Okuma MacTurn?

A The total length of the machine is probably approximately six to eight foot long. It's about approximately four-foot wide and approximately five to six-foot tall.

Q And it's made out of what kind of material?

A A variety of material. It's made out of the -- there's castings in it, there's regular steel, sheet metal steel. It's a variety of different materials.

Plastics and, you know, computer hardware for the controller. I mean, it's all types of materials.

Q And it's going to take pieces of steel that -- what are the typical diameter dimensions of those pieces of raw materials that --

A I think the biggest diameter of raw material that you can put in the machine to make a part was about three inches in diameter or thereabouts. I don't remember exactly but somewhere around three inches or

so.

Q Okay. And what shape? And some of them are circle shaped, I think that's how you described it?

A Most all the raw material put in the machine was round or round-shaped.

Q And it's being shaped, meaning it's being cut through the process that it's programmed to do in the Okuma MacTurn; correct?

A Yes.

Q Okay. So it's probably at a fairly high rate of speed; correct?

A The rotation of the work piece would be at a high rate of speed, yes.

Q And some cutting device is being applied against the steel to cut it?

A Yes.

Q And shape it?

A Yes.

Q So there's some friction involved here, and there's some impacts that are occurring between the steel as it's rotating and the cutting device as it's entering and shaping of that particular piece of steel; correct?

A There's no impacting, no. There's a cutter

that touches the material and there's a force applied to that cutter that goes across the material to do the cutting. But there's no impacting.

Q So I apologize for misusing term. You know, I'm a lawyer. My dad was an engineer, but I guess it didn't rub off.

A It's all right.

Q So when you say "cutting," the raw steel is turning, and then the cutter is being directed toward the steel and then applied against the steel, so as to cut it and shape it; correct?

A Yes, yes.

Q Okay. Now, this piece of equipment weighs how much?

A I don't know. I really don't know. I mean, it's a few thousand pounds. I don't know exactly.

Q So tons, in other words?

A Maybe. I don't know exactly. But it's a heavy piece of equipment.

Q And when it was -- when the riggers came to get it, how did they pick it up from where it was, and what did they do with it at that point?

A I wasn't at the location when they picked it up at Atsco. So I couldn't tell you that.

If you're asking me what a rigger would normally do, I can answer that.

Q Sure.

A A rigger normally either uses one of two things to lift a piece of equipment. They use a heavy-duty forklift that can withstand the weight of the machine, and they actually pick it up and then strap it to the forklift, so it can't fall off the forklift, and then actually move it around with the forklift.

Or they use a crane to come in and lift it up with a crane and block and tackle and strap it to that and then move it, and set it back down.

Q And --

A It depends on the weight of the machine as to whether you use a forklift or a crane.

Q And when they pick it up, they are going to be placing it on the bed of a truck; correct?

A That is correct.

Q And it's probably a trailer, open trailer that can withstand the weight of the piece equipment; correct?

A Typically, that's correct.

Q And then how far is it from Mentor, Ohio to Cranberry, Pennsylvania?

A Approximately -- it's approximately a two and a half hour ride. So it's what, 60 miles, 70 miles, maybe. I don't know. Something like that.

Q Is the road surface -- or was the road surface in September of 2014, smooth as glass from Mentor, Ohio to the Hy-Tech facility in Cranberry, Pennsylvania?

A I have no idea.

Q The chances are not, in northern parts of the United States; am I correct?

MR. MUETHING: Objection.

THE WITNESS: I was not in -- you know, at the time that machine was moved, I had not went through that area, so I can't tell you for sure what the road conditions were.

BY MR. COLLINS:

Q Do you think it was smooth as glass on the roadways from northeastern Ohio to Cranberry, Pennsylvania in September of 2014?

A I have no idea.

Q In transporting a piece of equipment like the Okuma MacTurn, is there any possibility that damages could be incurred just by virtue of moving it?

A Damages can happen during a move of any equipment. But the -- when we received this particular

piece of equipment, we inspected it, set it down, installed it, and did not see any damage, whatsoever.

Q But there could be damage by virtue of transporting it, and I think you said it in your earlier part of your response?

A It's possible.

Q Okay.

A It's possible.

Q Did you know the background of this piece of equipment? And background that was disclosed to Hy-Tech before this transaction occurred?

MR. MUETHING: Objection.

THE WITNESS: No, no.

BY MR. COLLINS:

Q So you didn't know that this piece of equipment had been the subject of extensive repairs by the Gossinger Company prior to the sale of the assets from Air Tool to Hy-Tech?

MR. MUETHING: Objection.

MR. COLLINS: You didn't know that?

THE WITNESS: No. I did not have any recollection about that or know anything about that in the past.

BY MR. COLLINS:

Q Did you hear from Mr. Ober that he had an extensive conversation with Rick Sabath regarding the condition of this particular piece of equipment?

A No.

MR. MUETHING: Objection. Calls for hearsay.

THE WITNESS: No.

BY MR. COLLINS:

Q Do you know who Rick Sabath is?

A I only knew who -- I've never met him, but I know who he is. He's the owner of Atsco.

Q Did you ever interact with him on any account at Atsco?

A No. Never.

Q So you heard from somebody who Rick Sabath is?

A Right. Yes.

Q Did you know that Hy-Tech had always intended to sell manufacturing equipment that was in the Air Tools Mentor facility?

A No, I don't.

Q Did you know that the cost structure of the Air Tool Mentor facility was always intended by Hy-Tech to be short-lived?

MR. MUETHING: Objection.

THE WITNESS: I'm not sure if I one hundred percent know what you're asking me. I don't understand the question.

BY MR. COLLINS:

Q Did you know that they didn't intend to continue manufacturing operations in the Air Tool Mentor, Ohio facility?

A I was told that after the purchase.

Q And obviously, by moving this most sophisticated piece of equipment that Air Tool owned 40 days after the purchase, it was pretty clear that there was no intention of keeping that Mentor facility open; correct?

A I'm not sure if I knew that 40 days after or not. So I wasn't involved in the discussions of, you know -- I had no decision as to whether they were going to leave the Mentor facility open or not.

I was responsible for Hy-Tech and running that location.

Q Did you know that Hy-Tech abandoned its lease before the end of the term at the Mentor facility?

A No.

Q Did you know that Hy-Tech believed that there was more than enough equipment in the Cranberry facility

to handle all of the manufacturing of the Air Tool parts?

A No.

Q Are you familiar with the inventory control system that Air Tool used before this closing of this sale to Hy-Tech?

A No.

Q Did you ever use -- I think you did talk to us earlier about you transitioning data from other companies into the system used by Hy-Tech?

A Right. Yeah, I personally didn't do the data transfer, but other people in Hy-Tech did the data transfer that came from Atsco, but I was not involved in it.

Q All right. So you don't know what inventory control system Air Tool was using before this transaction closed, do you?

A Yeah. I don't know.

Q And do you know how the Air Tool inventory was transferred into the Hy-Tech system?

A No, I don't know how it physically was transferred. That was done by finance.

Q Do you know how the physical transfer of the parts on the shelves occurred from Mentor to the

Cranberry facility after the transaction?

A Yes. After the transaction, we actually had some of our employees go up and box up the parts and pack up the parts to get them ready to ship down to Hy-Tech.

Q And did the boxes have indicators of what was in the packaging?

A Oh, yeah. Part numbers and quantity of what the parts were, yes.

Q And what part numbers were you using? The Air Tool part numbers or the Hy-Tech part numbers?

A Atsco's part numbers.

Q And when the materials were then shipped to Cranberry, were they incorporated into the inventory of Hy-Tech?

A Yes.

Q Were there any amounts of inventory that were taken from Air Tool -- well let me withdraw that and start again.

When did the inventory from the Mentor facility get removed and taken to Cranberry?

A You know, I don't remember the exact date.

Q Well, can you give me an approximate time?

A It would have been approximately a few months

after the transition, maybe three or four months, but I really don't know the exact date.

Q All right. I'll accept that, three or four months.

And now I want to ask you: Were there any parts taken from the Air Tool Mentor facility before the large amount of inventory was taken from Mentor and transported to Cranberry?

A Not that I'm aware of.

Q Mr. Ober didn't pack up his truck and bring some things back with him?

A I have no idea.

Q Do you know when Hy-Tech told the Air Tool staff that the Mentor facility was closing?

A I don't remember the exact day, and I wasn't the one that did it. But I don't remember.

Q Can you give me a guess? Was it immediately after the August 13, 2014 date on the --

A I'm not going to guess. I don't remember.

Q Was it days or weeks or months after August 2014?

MR. MUETHING: Objection.

THE WITNESS: It was months, but I don't remember exactly. I don't remember how many months.

BY MR. COLLINS:

Q Okay. Did you have anything to do with the inventory rollback?

A Inventory rollback, no, not that I know of.

Q Did you have anything to do with managing the Air Tool inventory after it had been incorporated into the Hy-Tech facility at Cranberry?

A I was responsible for the warehouse, so for shipping and receiving. So any Air Tool parts that may need to be shipped out to customers or whatever, that was under my management.

Q Would you have been working with any kind of an obsolescence policy in view when you were dealing with the Air Tool inventory?

A Not that I'm aware of.

Q That would be an accounting function, is that what you're telling us?

A That's correct.

Q Okay. All right. So you said that you went to Air Tool after the transaction, which had to have been after August 14, 2014.

Do you recall when it was that you traveled over to Mentor?

A I don't remember the exact date. I went a few

times, you know, in preparation of ultimately moving product and machines to Hy-Tech, but I don't remember the exact days.

Q Okay. So that was your function, was to assess what was present at the Air Tool facility and think about relocating it to Cranberry; is that right?

A That's right.

Q Okay. So you weren't judging the quality of any of the equipment at that time, were you?

A No.

Q And you weren't judging any of the quality of the parts that were inventoried at the Mentor facility, were you?

A No.

Q You don't know any of the past business practices of Air Tool before August 14, 2014, do you?

A No.

Q Did you have any access of Air Tools audited financial statements?

A No.

Q So you didn't apply any of the standards that were included in Air Tool's audited financial statements to any of the furniture, fixtures, or equipment that you relocated to Cranberry from Mentor; is that right?

A No, not involved.
Q And you would not have any knowledge about the quality or quantity of inventory that Air Tool used in the ordinary course of its business before Hy-Tech purchased it?
A No. No information.
Q So you wouldn't know what quantity of inventory Air Tool needed prior to the transaction to conduct its ordinary business; is that right?
A No.
Q I think I heard you describe -- I think it was couched in the sense of frustration with the MacTurn functioning.
But you were describing goals, that you had production goals; is that right?
A We had -- it was not necessarily goals. We had production quantities that we needed to meet for certain parts to be able to produce final product.
Q Okay. And you don't have any knowledge as to how, before the transaction, Air Tool met its production goal in the ordinary course of its business with its assets, do you?
A No, I don't.
Q So you're just describing goals that you, as a

Hy-Tech employee, had insofar as Hy-Tech had customers, Hy-Tech was offering certain products, and you're trying to satisfy the customers with those products; is that right?
MR. MUETHING: Objection.
THE WITNESS: Yes.
BY MR. COLLINS:
Q You're not trying to describe any responsibility of Air Tool to the customer demands that Hy-Tech had, am I right?
These are your customers.
A Well, they could have been customers that we inherited from Atsco, that, you know, once we bought the business, now we own it, then all the customer demand that they had is now Hy-Tech's.
So it could have been recent orders or recent orders that we inherited from Atsco that we were trying to fulfill.
Q Well, it could have been. But candidly, these two businesses were in the same marketplace; correct?
A Yes.
Q I mean, you guys made parts as well as finished goods in the Air Tool industry; correct?
A Yes.

Q And that's exactly what Air Tool did as well; correct?
A Yes. But they had some products that we did not have. And then the MacTurn machine that we inherited, the parts that they were running on the MacTurn machine were parts and tools that we did not make at Hy-Tech. They were specifically customers for Atsco.
Q Right. But nonetheless, this was a transaction that you guys took on in the purchase of the assets, and you were hoping that you could interact with those customers. But at this juncture, they're your customers; correct?
A Yes.
Q Okay. So how Atsco fulfilled what had been their customer needs, you're not trying to describe that they are the same thing.
I mean, Hy-Tech's customer needs and Air Tool's customer needs are similar, but they're not identical; is that right?
A That is correct.
Q And you also described -- and again, I think you used the word "frustration" with the fact that you say the Okuma MacTurn was not functioning in ways that

you wanted it to, that you would have to use alternative pieces of equipment to produce the products that the customers were looking for.
Do you recall that testimony?
A Yes.
Q And you don't know how Air Tool would have met its customer demand in operating its business if it also experienced any level of frustration with that same piece of equipment, do you?
A No.
Q I don't think that we're going to be getting into this in trial, but the questions were asked, so I'm just going to follow up a little bit on these drawings discussions.
Can you tell us how old in the industry is this Air Tool business?
A It's at 40 years, 50 years old at least, maybe older. It depends on the product and the parts.
Q And is Hy-Tech an original equipment manufacturer, or are you an aftermarket parts supplier?
A We actually are both.
Q Okay. And what percentage of your business is aftermarket parts?
A I would say probably 50.

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Q And as you understand Air Tool, were they an original equipment manufacturer or an aftermarket parts supplier?

A Actually, they did both as well.

Q Okay. And do you have any idea what the split was in terms of their business between those two?

A I have no idea.

Q When one is working in the aftermarket parts/business, isn't that for the manufacturer in replacement parts?

A Yes.

Q Okay. And so I think you just said it's a 40-year-old business. How often did parts in an Air Tool device need to be serviced or replaced because of breakage?

A It depends on how they're used, and, you know, how many years they've been in service. So it's hard to say exactly how often you should replace parts.

Q Sure. But it's not an uncommon thing for the owner of an Air Tool product to have to replace a part on an Air Tool, is it?

A No, it's not uncommon.

Q All right. And if -- and who are the big manufacturers of Air Tool in the United States?

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A Ingersoll Rand, Chicago Pneumatic, Clico, Atlas Copco, I guess, to some degree in the U.S. a little bit. Those are probably the major players.

Q And your company manufactures aftermarket parts for each of those original equipment manufacturing companies; is that right?

A Yes.

Q Does Ingersoll provide you with drawings for the aftermarket part that you're going to be selling in as replacement parts for Ingersoll Rand air tools?

A No.

Q How do you get drawings for aftermarket parts that you want to sell in for folks that are trying to repair their Ingersoll Rand equipment?

A We actually have acquired a sample of the Ingersoll Rand part, and our engineering department will reverse engineer that part.

Q And over time, does Ingersoll Rand replace given Air Tools that they're putting out in the marketplace?

A Do they replace?

Q Yeah.

A I'm not sure I understand.

Q Do they put in a new version or a new model,

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updated version or model of an Air Tool?

A Oh, they come out with various new models of air tools over the years, sure.

Q And over time, did the air tools change in terms of the parts that are necessarily incorporated into the air tools for replacement parts?

A They can, sure.

Q And does that also mean that when you're reverse engineering and manufacturing, you're also having to change your drawings?

A Yes.

Q Okay. Do you know if in the ordinary course of business, Air Tool required its drawings to be revised?

A Before a purchase, I do not know.

Q In regards to drawings, I think as you've described, principally changes in tolerance; is that correct?

A It can be a variety of things. It can be changes in tolerance, heat treatment, if there's painting or plating. Overall dimensions can change. It's a variety of different things that can change.

Q Okay. Do you know if Air Tool followed the exact same manufacturing process that Hy-Tech follows in

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manufacturing as of, for instance, Ingersoll Rand and replacement parts for air tools?

A Did they follow the same process?

Q Yes.

A As it relates to what? Manufacturing?

Q Yes. Manufacturing replacement parts where, for example, an Ingersoll Rand air tool?

A I'm not familiar with Atsco's processes here in detail.

Q Okay. Do you know inventory returns that Atsco experienced of parts that it manufactured prior to the transaction with Hy-Tech?

A I'm not familiar with their returns that they experienced before the acquisition, no.

Q So you wouldn't know if they got a lot of defective parts sent back to them or not?

A No.

Q You wouldn't know if they had returned product because it wasn't functional in an original equipment manufacturer's piece of equipment prior to the transaction?

A Not prior to the transaction, no.

Q Okay. Give me a moment. I might be done myself.

Do you know who Richard Horowitz is?

A Yes.

Q Can you tell me who he is?

A He the CEO of P&F Industries.

Q And did he have anything to do with the purchase and sale between Atsco and Hy-Tech?

A I don't personally know that.

Q You never saw him at the facility of Atsco in Mentor prior to the transaction, did you?

A No.

Q Sir, I appreciate your time, and that's all I have for you. Thank you very much.

A All right. Thank you. Go get tested.

MR. COLLINS: I'm sorry?

THE WITNESS: Go get tested.

MR. COLLINS: We made the appointment when we took our break, so --

MR. MUETHING: Okay. Good.

MR. COLLINS: We're off the record.

THE VIDEOGRAPHER: The time is now 12:49 p.m. And we are now off the record.

(Off the record.)

THE VIDEOGRAPHER: The time is now 12:53 p.m., and we are now back on the record.

REDIRECT EXAMINATION

BY MR. MUETHING:

Q Patrick, again for the record, this is Brian Muething. Just wanted to ask you a couple follow-up questions from your testimony with Mr. Collins. He asked you some questions about the process of moving the MacTurn machine.

Do you recall that testimony?

A Yes.

Q Are you aware of any damage that occurred in connection with moving the machine?

A No.

Q On PX114, I'll represent to you that there's an invoice from a Ramsey machine for the moving of the MacTurn.

Do you remember talking about that earlier?

A Yes.

Q Is that, in fact, the company that moved the MacTurn machine to the facility in Pennsylvania?

A Yes.

Q What has been your experience with Ramsey Machine in terms of as a rigging company? Have you used them before?

A We've used them many, many times in the past.

Q What has been your experience in the way they deliver their services?

A They're very professional. As far as I've been involved in the eight years I've been with Hy-Tech, we've never had them damage a machine or have any problems with a machine.

We just recently moved well-over one hundred machines back at the beginning of the year and did not have one issue with it.

Q Mr. Collins asked you some questions that generally established that you may not have known how Atsco operated before the transaction closed.

Do you remember those questions?

A Yes.

Q The deficiencies that you testified to on direct examination, did they result in the machine simply not working at all?

A That's -- you're talking about with the MacTurn?

Q Yes, sir.

A Correct. When we had a problem with the MacTurn, it was that the machine would not operate properly, or it was just dead. It would not function.

Q So without knowing the specifics of how Atsco may have utilized the MacTurn, you expected that they would have been able to turn it on, at least; correct?

A I assumed so, but --

MR. MUETHING: That's it, Tim.

No further questions for you, Patrick.

THE WITNESS: Okay.

MR. COLLINS: Just a couple here.

RECROSS-EXAMINATION

BY MR. COLLINS:

Q So you did tell us that it's possible when a 1,000-pound piece of equipment is transported from Mentor, Ohio on northeastern Ohio roads and then over into Pennsylvania roads, to Cranberry, Pennsylvania, that that piece of equipment might sustain some damage; correct?

A This piece of equipment, from what I knew, did not sustain any damages.

Q Well, would all damage be visible, or could some of it not be visible to the naked eye?

A The machine that we sat down at Hy-Tech and powered up worked initially with no obvious problems or

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defects or damage.

Q How old was that piece of equipment when you powered it up?

MR. MUETHING: Objection. This is outside the scope of the cross.

THE WITNESS: You know what, I really don't know. I don't remember the date of manufacture on that machine.

BY MR. COLLINS:

Q Don't these pieces of equipment also wear out?

MR. MUETHING: Objection. Outside the scope -- hey, Patrick, just hold on for one second.

THE WITNESS: Okay.

MR. MUETHING: Just for the Court.

Objection. It's outside of the scope of redirect.

Go ahead. You can answer the question.

BY MR. COLLINS:

Q You can answer.

A Over time, CNC machines, milling manufacturing-type machines like that do wear over time.

Q And some do wear sooner than others; correct?

A It depends on how much you use the machine.

Q Would transporting a piece of equipment as

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well as using it potentially impact its functionality and its future life?

MR. MUETHING: Objection.

THE WITNESS: My experience --

MR. MUETHING: Patrick.

THE WITNESS: Yeah.

MR. MUETHING: I'm sorry. I need to make my objections for the record. I'm not going to stop him from asking the questions. I'm not going to stop you from answering them. I just need to make record.

THE WITNESS: Okay.

MR. MUETHING: So just maybe a little pause and then he can ask his question again, sir.

THE WITNESS: Okay.

MR. MUETHING: Objection. It's outside the scope of redirect.

Go ahead.

THE WITNESS: My experience in 20-plus years in doing this type of business, I've moved many, many machines over the years, and I have not had any machines that I've sat back down that were working previously, did not work when we sat them back down and then installed them and hooked them up.

Normally, with a normally operating machine,

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when you move one, if you're doing it the right way, you don't have any problems. And I've not had any kind of problems in the past like I have with this machine.

BY MR. COLLINS:

Q Well, so there's a couple factors that could be playing into this piece of equipment not working, isn't that true?

MR. MUETHING: Objection.

THE WITNESS: You know, as far as having factors that could -- what factors those are, who knows? I can't say yes or no on that.

BY MR. COLLINS:

Q So you think there's only one factor, there's only one reason why it doesn't work?

MR. MUETHING: Objection.

Tim, I asked him about the moving company, and I asked him if the machine was turning on. That's it.

MR. COLLINS: I appreciate that.

MR. MUETHING: Thank you.

Go ahead and answer.

MR. COLLINS: Sir, do you have an answer for me?

THE WITNESS: Ask the question again.

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BY MR. COLLINS:

Q Are you suggesting there's only one factor for this piece of equipment not working?

A There's a multitude of factors internally in the machine that can cause the machine not to work or function properly.

Q And those internal factors -- factors internal of the machine could be caused by external forces; correct?

A I don't know what external forces would have caused these problems?

Q Bumping on the road to Cranberry, Pennsylvania is one factor I'm wanting to pose to you to see if you would agree that that's one of the reasons why this piece of equipment may not have worked as well as you would hope?

A From what I know when we sat the machine back down and installed the machine and hooked it back up, it worked properly initially.

Q Right so --

A So I cannot say whether or not it could have or could not be damaged in transit. I don't know.

Q So somebody that's got more technical knowledge about this piece of equipment is the person

that we need to tell all of us why this thing was not working?

MR. MUETHING: Objection.

THE WITNESS: You need -- yeah.

If you want to know more specifics as to all of the failures of the machine and all the reasons why it failed, you would have to talk to someone who has a lot more knowledge about the internal work of the machine than myself.

Q Okay. That's good enough. Thank you, sir. That's all I have. Thank you very much.

A Yeah.

MR. MUETHING: Patrick, you're done.

THE WITNESS: Okay.

MR. COLLINS: So, Miranda, you --

I don't know if you want to talk to him about reading because you have to get this out by Monday so --

MR. MUETHING: Right.

Patrick, you have the opportunity to read ----- think as we've talked about maybe at one point. You have the opportunity to read and review your transcript and notwithstanding Ms. Perez's efforts, if there's anything that's misspelled or didn't get down accurately, you have the opportunity to correct it.

I would encourage you to exercise that right, but that's up to you.

THE WITNESS: Okay.

MR. MUETHING: Would you like to read and sign your transcript?

THE WITNESS: Sure.

MR. COLLINS: Very good, sir. Thank you for your time.

THE WITNESS: Thank you.

MR. COLLINS: Brian, thanks.

THE VIDEOGRAPHER: The time is now 1:01 p.m., and we are now off the record.

(Proceedings concluded at 1:05 p.m.)

DEPONENT'S DECLARATION UNDER PENALTY OF PERJURY

I, WILLIAM PATRICK CURRY, do hereby declare under penalty of perjury that I have read the entire foregoing transcript of my deposition taken on November 4, 2020; that I have made any corrections as appear noted on the Deposition Errata Sheet, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this_____day of_____, 2020, at_____, _____.

(City) (State)

_____

WILLIAM PATRICK CURRY

DEPOSITION ERRATA SHEET

Case Name: Atsco Holdings Corp, et al. v. Air Tool Service Company, et al.

Case No.: 1:15-CV-1586

Deposition Date: November 4, 2020

Deponent: William Patrick Curry

PAGE LINE DESIRED CHANGE

Signature: _____ Date: _____

- CURRY -

STATE OF OHIO)
)
)
NOTHERN DISTRICT)

I, MIRANDA L. PEREZ, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken remotely at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath.

That a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is a true and accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of an attorney of any of the parties.

In witness whereof, I have hereunto subscribed my name.

Dated: November 16, 2020

_____

MIRANDA L. PEREZ
Certified Shorthand Reporter
CSR No. 14352